IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Writ Petition No. 1450 of 1999

1. Sanjiv Apartments Cooperative Housing Society Ltd., a Cooperative Housing Society registered under the Maharashtra Cooperative Societies Act and situated at Sanjiv Apartments, N.S.Mankikar Road (Duncan Causeway Road) Sion, Mumbai 400 022

2. J.Natarajan of Mumbai Indian Inhabitant, residing at Flat No.1, Sanjiv Apartments, N.S. Mankikar Road, Sion, Mumbai 400 022

3. Lalitha Krishnaswamy of Mumbai Indian Inhabitant residing at flat no.2, Sanjiv Apartments, N.S.Mankikar Road Sion, Mumbai 400 022

4. L.D.Pardal of Mumbai Indian Inhabitant residing at Flat No.102, Sanjiv Apartments, N.S.Mankikar Road, Sion Mumbai 400 022

5. M.H.Mansukhani of Mumbai Indian Inhabitant residing at Flat No.201, Sanjiv Apartments N.S.Manikar Road, Sion Mumbai 400 022.

6. Mona Date of Mumbai Indian Inhabitant residing at Flat No.202, Sanjiv Apartments N.S.Mankikar Road, Sion Mumbai 400 022

7. J.Patrawala of Mumbai Indian Inhabitant residing at Flat No.301, Sanjiv Apartments, N.S.Mankikar Road, Sion, Mumbai 400 022

8. N.M.Tejwani of Mumbai Indian Inhabitant residing at Flat No.302, Sanjiv Apartments, N.S.Mankikar Road

Sion, Mumbai 400 022 ..Petitioners

vs.

1. The State of Maharashtra

2. Special Land Acquisition
Officer (7) Mumbai and
Mumbai Suburban District
Shri Chhatrapati Shivaji Market
Building, 2nd floor, Mata
Ramabai Ambedkar Marg, Fort
Mumbai 400 001

3. The Municipal Corporation of
Greater Mumbai having its
office at Mahapalika Marg
Mumbai 400 001 ..Respondents

Shri C.M.Korde i/b M/s Subhash Pradhan & Co. for petitioners.

Smt.Madhubala Kajale, A.G.P. for respondent nos.1 and 2

Smt.N.V.Sanglikar for respondent no.3.

CORAM: A.P.SHAH &
S.J.VAZIFDAR JJ.
11th February,2005

P.C.

1. Heard Advocates.

2. Perused the affidavit of Vasant L.Parab, Asstt.Engineer (T & C.). Paragraphs 3, 4 and 5 of the said affidavit read as follows:

> "3. Accordingly the respondents have now completed the entire procedure for prescribing the regular line under section 297(1)(b) followed by publishing the notice

in the local news paper as well as Govt. Gazette. I say that the revised regular line of N.S.Mankikar and V.N.Purav Marg for road over bridge at Chunabhatti Railway Crossing is now sanctioned by the 3rd respondent vide C.R.No.931 of 19.1.2004. I crave leave to refer to and rely upon a copy of gazette notification dated 27th September, 2002 a copy of the corporation Resolution dated 19.1.2004 and a copy of the public notice when produced.

4. I say that the respondents have now complied with the procedure as prescribed under the MMC Act for prescribing the regular line. It is also relevant to note that it has been proposed to realign the regular line by avoiding the built up set back of the petitioner’s building keeping the regular line of V.N.Purav Marg same as 27.45 meters as shown in plan bearing NO.EET & C/ES/RL/21 dated 15.6.2002.

In view of the fact that the petitioner’s building and/or built up set back is not presently affected by the RL and in view of the fact that the respondents have complied with all the procedure prescribed under the

Act it is prayed that the interim order dated 24th November, 1999 be vacated and the respondents be allowed to construct the road over bridge and/or widen the road as per the revised regular line in accordance with plan bearing No.EET & C/ES/RL/21 dated 15.6.2002 in public interest. I say that there is extreme urgency and necessity to construct the said road over bridge at Chunabhatti Railway Crossing for the smooth flow of traffic which has increased leaps and bounds. I say that the construction of road over bridge will ease out the traffic to a large extent and will also reduce traffic jams being caused on the said road and other connected roads."

3. In view of the statement made by the affiant that the petitioners' building and/or built up set back is not presently affected by RL the grievance of the petitioners no longer survives. The respondents are free to take steps to acquire the land as per revised road line but it is made clear that under no circumstances the respondents will touch the building of the petitioners and/or built up set back.

4. Petition stands disposed of.